



USER'S GUIDE TO THE HERNDON ZONING ORDINANCE

22. Explanation of Variances, Waivers, Adjustments and Exceptions

The Town of Herndon Zoning Ordinance User Guide series provides the public with general information on land use regulations affecting activities undertaken by the public and administered by the Herndon Department of Community Development. It is not intended to be a complete statement of all applicable regulations. Individuals are encouraged to contact the Department of Community Development at 703-787-7380 for complete permitting requirements.

How Flexible are Zoning Regulations?

Zoning regulations are law, and failure to comply with them can result in violation proceedings and civil or criminal penalties. The legal justification for zoning regulations depends on applying the regulations evenly to all properties and circumstances.

The Commonwealth of Virginia, which gives permission for local jurisdictions to establish zoning regulations, also allows local jurisdictions to consider unique circumstances on a case by case basis. There is a specific formal process for obtaining relief from a zoning regulation. The Commonwealth does not allow for local zoning regulations to be waived casually.

Zoning regulations are often very technical and can be confusing or difficult to understand. When there is doubt about how a specific zoning regulation may apply to a specific property or circumstance, it is best to ask the Town staff for clarification. The Code of Virginia and the Town Council of Herndon vest the Zoning Administrator with the unique legal authority to interpret zoning regulations and to make final decisions about how the regulations

may or may not apply to a specific property or situation. Usually a request is made to the Zoning Administrator to make such a final decision. The Zoning Administrator's response is documented in formal correspondence to the person making the request. This correspondence is the "Zoning Administrator Determination." For more information about this process, see Zoning Ordinance §78-202(K), *Determinations*.

What are the Types of Relief from Zoning Regulations that can be requested and granted?

The Herndon Zoning Ordinance allows for **six** different types of relief (see attached table.) Each type involves a formal application, a fee, and some type of formal permission granted by a reviewing authority. In some cases, the relief can be granted only after a public hearing.

For more information about obtaining a **variance**, see User Guide #13, Board of Zoning Appeals and the Zoning Ordinance section cited in the attached table.

For information about other types of relief, please see the Zoning Ordinance sections cited in the attached table.

Need more information?

Got a question on required permits, the permit process, or application requirements? Call or make an appointment to see a member of the staff in the **Department of Community Development at 703-787-7380**.

Have a question regarding building permits or construction codes? Call or make an appointment to see the **Building Official at 703-435-6850**.

Visit the Town of Herndon on the web at www.herndon-va.gov for the Zoning Ordinance User Guide series or to access the Town Code. Town offices are located at the Herndon Municipal Center at 777 Lynn Street, Herndon, Virginia, 20172.

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Types of Relief from Zoning Regulations that can be requested and granted for zoning regulations in the Town of Herndon, Virginia						
Applies only for	Variance	Waivers	Administrative Adjustments	Exceptions	Administrative Waivers	Modifications
specific physical conditions that constrain development on a site as described in §78-202(D), <i>Variances</i>	✓					
for specific circumstances affected by provisions in §78-304(D), <i>Chesapeake Bay Preservation Overlay District</i> , described in §78-304(D)(12) or §78-304(D)(13)				✓	✓	
Site plan preparation requirements, as described in in §78-202(F), <i>Site Plans</i> (this term also applies for subdivision matters as outlined in Chapter 70 of the Town Code)		✓				
For setback, only due to an error in the siting of a building or to accommodate a healthy tree, as described in §78-202(E), <i>Administrative Adjustment</i>			✓			
Planned development zoning, in accordance with §78-303(A)(7)(d), <i>Modification of Requirements</i>						✓
Application Process involves						
Public hearing with the Board of Zoning Appeals (typically one or two months from submittal of application to action by the Board)	✓					
Public hearing with the Town Council (typically two months or more)				✓		✓
Administrative approval by the Zoning Administrator (no public hearing) (depending on the request, can take days or weeks)		✓	✓		✓	